

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

| | | |
|----------------------------------------|---|------------------------------|
| ERIC LEE PROCTOR, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. CIV-23-602-G |
| |) | |
| GRADY COUNTY, OKLAHOMA, et al., |) | |
| |) | |
| Defendants. |) | |

ORDER

Plaintiff Eric Lee Proctor, a state prisoner appearing pro se, initiated this federal civil rights action on July 12, 2023. In accordance with 28 U.S.C. § 636(b)(1), the matter was referred to Magistrate Judge Amanda Maxfield Green for preliminary review.

On September 25, 2023, Judge Green issued a Report and Recommendation (“R. & R.,” Doc. No. 9) recommending that the Court abstain and that this action be dismissed pursuant to *Younger v. Harris*, 401 U.S. 37 (1971), due to Plaintiff having previously raised the same civil rights claims through the filing of a complaint in the District Court of Grady County, Oklahoma. *See* R. & R. at 6-9 (citing *State v. Proctor*, No. CF-1994-78A (Grady Cnty. Dist. Ct.), *docket available at* <https://www.oscn.net>).

Plaintiff has filed an Objection to the R. & R. *See* Doc. Nos. 10, 11. Pursuant to controlling authority, the Court reviews de novo the portions of the R. & R. to which specific objections have been made. *See United States v. 2121 E. 30th St.*, 73 F.3d 1057, 1060 (10th Cir. 1996); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

In his Objection, Plaintiff represents that he has dismissed the civil rights complaint that was filed in the District Court of Grady County. *See* Doc. No. 11, at 1. A review of the publicly available state-court docket reflects that a voluntary dismissal was indeed filed on October 30, 2023. *See State v. Proctor*, No. CF-1994-78A. Because the factual circumstances have changed since issuance of the R. & R., and Plaintiff's state-court civil rights complaint is no longer pending, abstention on the cited basis is not supported by the current record.

CONCLUSION

Accordingly, the reasoning of the Report and Recommendation (Doc. No. 9) is ADOPTED to the extent forth herein. The Court declines to dismiss this matter at this time.

This matter is re-referred to Judge Green in accordance with the initial order of referral.

IT IS SO ORDERED this 10th day of April, 2024.



CHARLES B. GOODWIN
United States District Judge